

Wayne S. Flick (Bar No. 149525)
Indira E. Smith (Bar No. 230433)
LATHAM & WATKINS LLP
633 West Fifth Street, Suite 4000
Los Angeles, California 90071-2007
Telephone: (213) 485-1234
Facsimile: (213) 891-8763
Email: wayne.s.flick@lw.com;
indira.smith@lw.com

Attorneys for Defendant
MII LIQUIDATION, INC.
(f/k/a METABOLIFE INTERNATIONAL, INC.)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MARCY and KRISTIAN DICKEY,
Plaintiffs,
vs.
METABOLIFE INTERNATIONAL,
INC. et. al,
Defendants.

Case No. 08-CV-00544 BTM (JMA)

**NOTICE OF JOINT MOTION AND
JOINT MOTION TO DISMISS
ACTION WITHOUT PREJUDICE**

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that Plaintiffs Marcy and Kristian Dickey and Defendant MII Liquidation, Inc. (formerly known as Metabolife, International, Inc.) (collectively, the "Parties"), by and through their respective counsels of record, jointly move to dismiss the above-captioned case in its entirety on the ground that a settlement has been reached in connection with the related MDL pending in the United States District Court for the Southern District of New York resolving all remaining claims herein.

The Parties' Joint Motion to Dismiss Action Without Prejudice (the "Joint Motion") is based on the accompanying memorandum of points and authorities, matters of which the Court may take judicial notice, and any other evidence as may be before the Court.

The Parties waive the regular notice period for entry of an order on the Joint Motion.

Respectfully submitted,

DEFENDANTS' COUNSEL

Dated: May 30, 2008

By /s/ Indira E. Smith

Indira E. Smith
Attorney for MII GUC Trust

PLAINTIFFS' COUNSEL

Dated: May 30, 2008

By Stephen R. Bailey

Stephen R. Bailey
Attorney for Marcy and Kristian Dickey

MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiffs Marcy and Kristian Dickey and Defendant MII Liquidation, Inc. (formerly known as Metabolife, International, Inc.) (collectively, the “Parties”), by and through their respective counsels of record, jointly move the Court to dismiss the above-captioned action in its entirety.

On May 23, 2005, Plaintiffs sued Defendants in Texas state court. The claims against Defendants Wal-Mart Stores, Inc. and Muscletech Research and Development, Inc. were voluntarily dismissed by the Plaintiffs on September 2, 2005. Defendant Rusche Properties I, LLC was not served and did not file an appearance.

On March 27, 2008, the remaining claims in the Texas case were transferred to this Court for purposes of eventual transfer to the Multidistrict Litigation in the United States District Court for the Southern District of New York (the “MDL”), Case No. 08-cv-00544. However, before the case could be transferred, the parties in the MDL reached a global settlement, the terms of which included Plaintiffs’ claims.

On May 30, 2008, the Parties communicated by email with Bruce C. Gaible, counsel for Anum Enterprises, Inc. Mr. Gaible is not admitted to practice before this Court but, on behalf of Defendant Anum, he does not object to this Motion to Dismiss.

Therefore, the Parties agree that the above-captioned case can and should be dismissed in its entirety without prejudice because Plaintiffs’ claims for relief are being addressed as part of the settlement in the MDL.

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Respectfully submitted,

DEFENDANTS' COUNSEL

Dated: May 30, 2008

By /s/ Indira E. Smith

Indira E. Smith
Attorney for MII GUC Trust

PLAINTIFFS' COUNSEL

Dated: May 30, 2008

By 

Stephen R. Bailey
Attorney for Marcy and Kristian Dickey